PS&T COMMITTEE AGENDA

February 5, 2015 - North Conference Room

21630 11th Avenue South – Des Moines 98198

5:30P – 6:50P

1. Approval of minutes of 10/02/2014 meeting
2. Barnes Creek Trail Update

   (Informational Item – 20 min)

   Staff will provide an update on the Barnes Creek Trail design efforts including staff's recommended trail alignment alternative.
3. Nuisance Property Abatement

   (Discussion Item – 20 min)

   Staff will provide more of an update than presented at Council and seek comments as to how to move forward.
4. Abandoned Residential Property Registration

   (Discussion Item – 20 min)

   Staff will seek Committee input on a rough draft of the "Chula Vista" Abandoned Property Registration Ordinance.
5. Re-Write of Nuisance Chapter

   (Discussion Item – 20 min)

   Staff will present amendments to the City's current Nuisance Code to update the Code and to allow for more effective and efficient enforcement.

Des Moines City Council PS&T Committee Minutes –10/02/2014

Meeting called to order: 5:44 PM on October 2, 2014, in North Conference Room @ 21630 11th Avenue S, Des Moines WA 98198.

Council Members
Vic Pennington (excused)
Jeanette Burrage
Dave Kaplan

Other City Staff
Tony Piasecki – City Manager
Dan Brewer – Planning, Building & PW Director
Brandon Carver – Engineering Services Manager
George Delgado – Police Chief
Michael Matthias – Asst. City Manager
Grant Fredricks – Spec Projects Consultant
Peggy Volin – Admin Asst II

AGENDA:

1. Approval of Minutes from 9/1/2014 meeting
2. Sound Transit Update
3. Police Department Update
4. CIP/Project Update

MEETING:

1. Approval of Minutes from 9/1/2014 meeting: Unanimously approved.
2. Sound Transit Update: Special Projects Consultant, Grant Fredricks, went over the Federal Way Link Extension Update Summary with the Committee. The Summary listed the current activities which included the time table for the Draft Environmental Impact Statement (DEIS); the continued public outreach to Des Moines citizens for input on this project; Sound Transit's offer to brief the Council on the DEIS; and upcoming meeting dates with the FWLE Interagency Work Group. He also listed the key milestones dates which started with Cooperating agencies submitting their technical review comments on the DEIS by Sept 29, 2014; Sound Transit letters going out to 621 property owners potentially affected by any of the alternatives and design options on Oct 6, 2014; January thru med-February 2015 is the draft EIS Council briefing and public comment period; March 2015 – the Sound Transit Board will identify the preferred alternative route; April 2016 – the final EIS is published; July 2016 – Sound Transit Board will select the project to build and Federal Transit Admin issues Record of Decision in October 2016; 2017-2018 – Final Design; 2019-2022 – Construction; and 2023 – Start of Service.
3. Police Department Update: Police Chief George Delgado, updated the Committee on the crime stats on the year to date and how the Des Moines Police Department is addressing them. He broke down the crimes by the four districts within the City limits

and reported that for the time period of June through August 2014 there had been 45 burglaries; 4 attempted burglaries; 64 thefts from an automobile; 57 stolen vehicles; and 44 cases of vandalism. He then went on to report about the "John Sting" operation in conjunction with the Seattle Police Department at the Garden Suites Motel on 9/30/2014 from 3 pm to 11pm which resulted in 10 arrests. He also pointed out the Seattle Times shadowed the SPD team for a story they are working on.

4. CIP/Project Updates: Engineering Services Manager, Brandon Carver, updated the Committee on the CIP Projects that were completed in 2014 which included the South 216th Segment 2 (18th – 24th Streets); the North Hill School Zone Flashing Beacons; and the Guardrail Program. He also listed the 2014 CIP Projects currently under construction which are: the South 251st Street Slide Repair; 24th Avenue S (208th – 216th); 216th Segment 1-a (24th – SR-99); Citywide Arterial Safety Improvements; MVD Crosswalk Improvement Phase 2 (222nd & 225th); 24th Avenue S – Midway Elementary Sidewalks; Driver Feedback Signs; Saltwater State Park Bridge Seismic Retro-Fit; Annual Sidewalk Program; Redondo Parking Study; Barnes Creek Trail and South 224th Street (Pac Hwy – 30th Ave S).

Adjourned 6:43 pm

Minutes submitted by:
Peggy Volin
Administrative Assistant II

BARNES CREEK TRAIL
DESIGN UPDATE

Current Activities & Outcomes:

A consultant has been retained to provide design services for the Barnes Creek Trail from South 216th Street to Highline Community College. Project milestones will consist of:

- Determine best fit trail alignment
- Complete trail easement execution with WSDOT within Historic SR509 ROW
- Perform Community Outreach
- Complete geotechnical investigation and survey needed for design
- Perform preliminary environmental review of the trail corridor to guide NEPA and critical area permitting
- Develop 60% Plans, Specification, and Estimate

Barnes Creek Trail Overview:

Barnes Creek Trail will be a multi-use trail providing regional connectivity, local connectivity, and promotion of sustainable transportation.

- Regional Connectivity – Accessible to planned Lake to Sound Trail, Des Moines Creek Trail, potential to Green River Trail and Interurban Trail
- Local Connectivity – Des Moines Creek Trail, Underwood Park, Post Office, Activity Center, Highline Community College
- Typical Trail Section – Hot Mix Asphalt and Boardwalk

Recommended Regional Trail Alignment:

Northern Section (S. 216th Street to S. 220th Street)

- Connects to existing Des Moines Creek Trail access on S 216th
- Follows Historic SR509 16th Ave S. ROW acquisition alignment (Complete)
- Potential for neighborhood connection – Underwood Park and Activity Center

Central Section (S. 220th Street to Kent-Des Moines Road)

- Follows Historic SR509 ROW Street Vacation/Permanent Easement (Established)
- Potential for trail spur connections – 15th Ave S

Southern Section (Kent-Des Moines Road to Highline Community College)

- Pedestrian crossing at grade or aerial at KDM
- Follows 16th Ave S adjacent to potential Highline School District development site
- Follows S 240th Street to HCC

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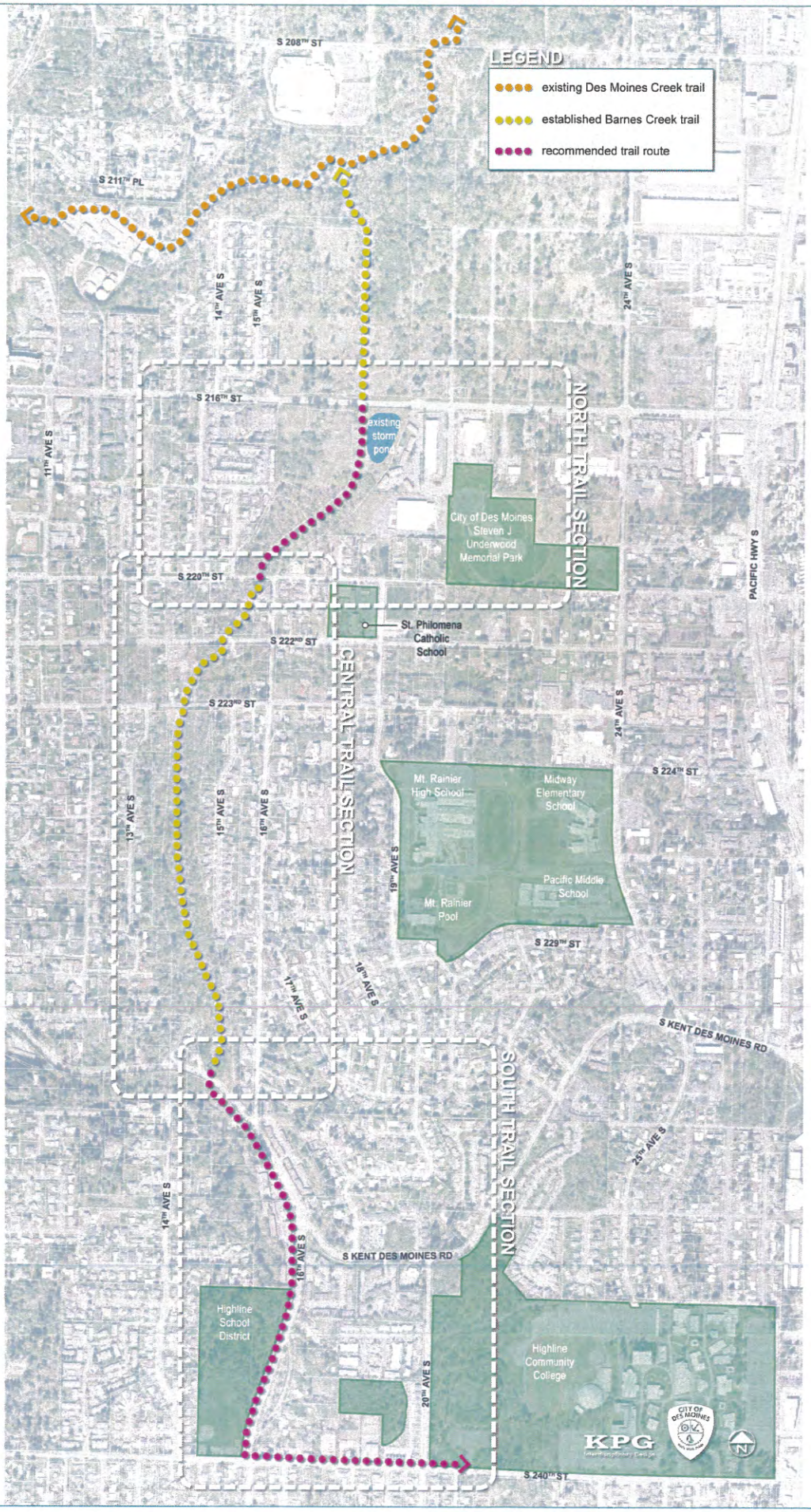
recommended trail routes



4. ABANDONED RESIDENTIAL PROPERTY REGISTRATION

Chapter
ABANDONED RESIDENTIAL PROPERTY REGISTRATION

Sections:

.010 Purpose/scope.

_____.020 Definitions.

_____.030 Recordation of transfer of loan/deed of trust isubstitution of beneficiary of deed of trust.

_____.040 Registration.

_____.050 Maintenance requirements.

060 Security requirements.

_____.070 Additional authority.

_____.080 Fees.

_____.090 Enforcement.

_____.100 Appeals.

_____.110 Violation/penalty.

_____.120 Severability.

_____.010 Purpose/scope.

It is the purpose and intent of the Des Moines City Council, through the adoption of this chapter, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

Nothing in this chapter shall be interpreted to allow or encourage circumvention of the foreclosure statutes of the state of Washington.

_____.020 Definitions.

For the purposes of this chapter, certain words and phrases used in this chapter are defined as follows:

"Abandoned" means a property that is vacant and is under a current notice of default or notice of trustee's sale and is not currently being offered for sale, rent or lease by the owner subject to such action(s) (currently being offered for sale, rent or lease is evidenced by a sign posted on the subject property advertising the property for sale, rent or lease with contact information and current phone number and/or an active listing in an electronic database accessible to City staff), and/or property that has been the subject of a foreclosure sale where the title was retained by the beneficiary involved in the foreclosure and any property transferred under a deed in lieu of foreclosure, whether or not the property is being marketed for sale, rent or lease.

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"Accessible" means a property or structure that unauthorized persons may gain access or entry to through a compromised/breached/unsecured gate, door, fence, wall, window, or other point of entry.

"Agreement" means any agreement or written instrument which provides that title to residential property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer or exchange.

"Beneficiary" means a lender or other entity under a note secured by a deed of trust.

"Buyer" means any person, co-partnership, association, corporation, or fiduciary that agrees to transfer anything of value in consideration for property described in an agreement of sale.

"Days" means consecutive calendar days.

"Deed in lieu of foreclosure" means a recorded document that transfers property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.

"Deed of trust" means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. Used in Washington instead of a mortgage, this definition applies to any and all subsequent deeds of trust, i.e.: second trust deed, third trust deed, etc.

"Default" means the failure to fulfill a contractual obligation, monetary or conditional.

"Distressed" means a property that is under a current notice of default and/or notice of trustee's sale or there has been a foreclosure by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure.

"Evidence of occupancy" means any condition visible from the exterior that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is legally occupied. Such conditions include but are not limited to secured/locked structures; active utility services; the absence of overgrown and/or dead vegetation; the absence of an accumulation of newspapers, circulars, flyers and/or mail; the absence of an accumulation of trash, junk and/or debris; the presence of window coverings such as curtains, blinds and/or shutters; the presence of furnishings and/or personal items consistent with residential habitation; statements by neighbors, passersby, delivery agents, or government employees that the property is legally occupied; or actual contact with occupants.

"Evidence of vacancy" means any condition visible from the exterior that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions

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include, but are not limited to, overgrown and/or dead vegetation; accumulation of newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities; accumulation of trash, junk and/or debris; the absence of window coverings such as curtains, blinds and/or shutters; the absence of furnishings and/or personal items consistent with residential habitation; and statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

"Field service provider" means an individual, entity or department that is responsible for inspecting, securing, and maintaining abandoned property.

"Foreclosure" means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor (borrower) defaults.

"Inspection" means a physical investigation at a property to obtain evidence of occupancy or vacancy and/or to verify compliance with this chapter and any other applicable code or law. Although interior inspections may be allowed under a deed of trust, they are not required by this chapter.

"Neighborhood standard" means those conditions that are present on a simple majority of properties within a 300-foot radius of the subject property. A property that is the subject of a neighborhood standard comparison, or any other abandoned property within the 300-foot radius, shall not be counted toward the simple majority.

"Notice of default" means a recorded notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale.

"Owner" means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property.

"Property" means any unimproved or improved real property, or portion thereof, situated in the city and includes the buildings or structures located on the property regardless of condition.

"Property preservation/real estate owned (REO) section/department" means the entity, group, section, department or the designee of a beneficiary that is responsible for inspecting, securing and maintaining abandoned and REO property.

"Residential" means any property, or portion thereof, situated in the city, designed or permitted to be used for dwelling purposes, and shall include all buildings and structures located on such property. This includes any property being offered for sale, trade, transfer, or exchange as residential, whether or not it is legally permitted and/or zoned for such use.

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"Responsible party' means the beneficiary that is pursuing foreclosure of a property subject to this chapter secured by a mortgage, deed of trust or similar instrument or a property that has been acquired by the beneficial interest at trustee's sale.

"Securing" means such measures as may be directed by the Planning, Building and Public Works Director or his or her designee so that the property is not accessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, the repair or boarding of door, window and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required. Locking includes measures that require a key, keycard, tool or special knowledge to open or gain access.

"Substitution of beneficiary of deed of trust" means an instrument that transfers the beneficial interest under a deed of trust from one beneficiary to another.

"Trustee" is the person, firm, entity, or corporation holding a deed of trust secured by the property.

"Truster" is a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

"Turf stain" means the application of an environmentally safe stain or dye that colors dead/dormant vegetation green.

"Vacant" means a building/structure that is not legally occupied.

_____.030 Recordation of transfer of loan/deed of trust/substitution of beneficiary of deed of trust.

Within 10 days of the purchase and/or transfer of a loan/deed of trust secured by residential property, the new beneficiary/trustee shall record with the King County Recorder's Office a substitution of beneficiary of deed of trust, or similar document, that lists the name of the corporation, entity and/or individual, the mailing address and contact phone number of the new beneficiary/trustee responsible for receiving payments associated with the loan/deed of trust.

_____.040 Registration.

Any responsible party/beneficiary or their designee shall perform an inspection of the property that is the security for the deed of trust, upon default by the trustor, within 10 days of recording a notice of default with the King County Recorder's Office. If the property is found to be vacant or shows evidence of vacancy, it is,

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by this chapter, deemed abandoned and the responsible party/beneficiary shall, within 10 days of the inspection, register the property.

Registration may be accomplished by either of the following methods:

A. By completing and returning to the Planning, Building and Public Works Director or his/her designee a City-provided registration form with required fee; or

B. By registering with a City-approved national database that contains the information set out below and which service the City may access at no cost.

Nothing in this section shall prohibit the use of both methods of registration.

From time to time, the City Manager may approve an acceptable national database(s) which shall be identified in writing and which shall be posted in the Planning and Building Department and on the City's website.

If the property is occupied but remains in default it shall be inspected by the responsible party/beneficiary, or their designee, monthly until (1) the trustor or another party remedies the default or (2) it is deemed abandoned. The responsible party/beneficiary or their designee shall, within 10 days of that inspection, register the property as described above.

The registration shall contain the name of the beneficiary/responsible party, the direct street/office mailing address of the responsible party/beneficiary (no P.O. boxes), a direct contact name and phone number for the responsible party/beneficiary and the name, address and phone number of the property management company, field service provider, property preservation or real estate owned (REO) section/department responsible for inspecting, securing, and maintaining the property.

In the case of hard copy registration under subsection (A) of this section, initial registration fee shall accompany the registration form. The registration shall be valid for as long as the registered property remains subject to this chapter. Any changes to the information required on the registration shall be reported to the Planning, Building and Public Works Director or his/her designee in writing within 10 days of the change. The City is not responsible to verify the accuracy of the information provided.

This section shall also apply to property that has been the subject of a foreclosure where the title was transferred to the beneficiary of a deed of trust involved in the foreclosure and any property transferred under a deed in lieu of foreclosure.

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Property subject to this chapter shall remain under the registration requirement, security and maintenance standards of this section as long as the property remains abandoned.

It is the obligation of the responsible party/beneficiary/owner to inform the City of any pending action, such as a bankruptcy, other court or administrative action that would prohibit the responsible party/beneficiary/owner from taking any of the actions required in this chapter.

_____.050 Maintenance requirements.

The exterior of the property shall be, in comparison to the neighborhood standard, kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

The property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

Insofar as there is existing or previously existing landscaping, all visible front and side yards shall be maintained to the neighborhood standard at the time registration was required. If no landscaping previously existed at the property in front and visible side yards, installation is not required under this chapter.

Landscape includes, but is not limited to, grass, turf stain, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation.

Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch (unless applied in conjunction with reseeding of turf areas), indoor-outdoor carpet or any similar material.

Maintenance includes but is not limited to regular watering, irrigation, staining, re-staining, cutting, pruning and mowing of required landscape and removal of all trimmings.

Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry. In either case properties with pools and/or spas must comply with the minimum security fencing requirements of the state of Washington.

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Adherence to this section does not relieve the beneficiary/responsible party of any obligations set forth in any covenants, conditions and restrictions and/or homeowners' association rules and regulations which may apply to the property.

_____.060 Security requirements.

Property subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

Secure manner includes but is not limited to the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other openings of such size that leave it accessible. In the case of broken windows, securing means the reglazing or boarding of the window. Locking includes measures that require a key, keycard, tool or special knowledge to open or gain access.

The responsible party/beneficiary or their designee shall perform monthly inspections to verify that the requirements of this chapter are being met.

If the responsible party/beneficiary does not have a property preservation or real estate owned section/department, a field service provider or property manager shall be contracted to perform the inspection to verify that the requirements of this section, and any other applicable laws, are being met.

The property shall be posted with name and 24-hour toll-free contact phone number of the beneficiary or property preservation, real estate owned section/department, field service provider or property manager. The posting shall be no less than eight and one-half inches by 11 inches and shall contain, along with the name and 24-hour toll free contact number, the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL" or similar. The posting shall be placed in a window adjacent to the entry door or attached to the exterior of the entry door. Exterior posting must be constructed of and printed with, or contained in, weather-resistant materials.

The property preservation/real estate owned section/department, field service provider, property manager or their designee shall inspect the property on a monthly basis to determine if the property is in compliance with the requirements of this chapter.

_____.070 Additional authority.

In addition to the enforcement remedies established in Chapter 1.24 DMMC and Chapter 1.28 DMMC, the Director of Planning, Building and Public Works or his or her designee shall have the authority to require the responsible

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party/beneficiary of any property affected by this section to implement additional maintenance and/or security measures including but not limited to securing any/all doors, windows or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of *an* on-site security guard or other measures as may be reasonably required to arrest the decline of the property. (

_____.080 Fees.

The fee for registering an abandoned residential property shall be set by resolution of the City Council.

_____.090 Enforcement.

Violations of this chapter may be enforced in any combination as allowed in Chapter 1.24 DMMC and Chapter 1.28 DMMC.

_____.100 Appeals.

Any person aggrieved by any of the requirements of this chapter may appeal insofar as such appeal is allowed under Chapter 1.24 DMMC and Chapter 1.28 DMMC.

_____.110 Violation/penalty.

Violations of this chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this section shall be subject to prosecution and/or administrative enforcement.

(1) Violation. No person shall violate or fail to comply with the provisions of this Title.

(2) Civil Infraction. A violation or a failure to comply with the provisions of this Title is a class 1 civil infraction and a violator may be penalized as is more specifically set forth in chapter 1.24 DMMC, Civil Infractions.

(3) Civil Violation and Penalty. A violation or a failure to comply with the provisions of this Title is further a civil violation and may be penalized and/or abated as is set forth in chapter 1.28 DMMC, Civil Violations and Penalties.

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(4) Superior Court – Civil Action. In addition to or as an alternative to any other penalty provided in this Title or by law, a violation or a failure to comply with the provisions of this Title may be enforced by a civil action filed in King County Superior Court in any manner allowed by law.

_____.120 Severability.

Should any provision, section, paragraph, sentence or word of this chapter be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.

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5. RE-WRITE OF NUISANCE CHAPTER

Chapter 9.64
NUISANCE

Purpose:

The purpose of this chapter is to define what constitutes a public nuisance and how a public nuisance will be abated. The intended result of abating a public nuisance is to protect public health and property values.

9.64.010 Nuisances.

The following state statutes are adopted by reference and are applicable within the city:

RCW

7.48.120Nuisance defined.
7.48.130Public nuisance defined.
7.48.140Public nuisances enumerated.
7.48.155Unlawful use of firearm or deadly weapon – Arrest required.
7.48.170 Successive owners liable.
7.48.180 Abatement does not preclude action for damages.
7.48.200 Remedies.
7.48.220 Abatement, by whom.
7.48.250Penalty – Abatement.
9.66.010Public nuisance.
9.66.020Unequal damage.
9.66.030Maintaining or permitting nuisance.
9.66.040Abatement of nuisance.
9.66.050Deposit of unwholesome substance.

Structures and buildings as nuisances.

A. It is a public nuisance for any vacant, unused, or unoccupied building or structure within the city to have any broken, missing, or open doors, windows, or other openings, which allows access by unauthorized persons or the general public.

B. A building or structure, whether occupied or not, will also be considered a public nuisance if it has exterior elements that are defective, decayed or will in any way contribute to the significant degradation of the building, and; if those exterior elements are not repaired or otherwise abated, the building, within a relatively short period of time, will become unsafe or make the building or structure uninhabitable.

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Maintaining or permitting nuisance.

Every person who commits or maintains a public nuisance, for which no special punishment is prescribed, or who willfully omits or refuses to perform any legal duty relating to the removal of such nuisance, and every person who lets or permits to be used any building or boat or portion thereof, knowing that it is intended to be or is being used for committing or maintaining any such nuisance, is guilty of a violation of this code.

Violations and penalties.

(1) Violation. No person shall violate or fail to comply with the provisions of this Title.

(2) Civil Infraction. A violation or a failure to comply with the provisions of this Title is a civil infraction and a violator may be penalized as is more specifically set forth in chapter 1.24 DMMC, Civil Infractions.

(3) Civil Violation and Penalty. A violation or a failure to comply with the provisions of this Title is further a civil violation and may be penalized and/or abated as is set forth in chapter 1.28 DMMC, Civil Violations and Penalties.

(4) Criminal Penalty. In addition to or as an alternative to any other penalty provided in this Title or by law, a person convicted of a violation of this Title is guilty of a gross misdemeanor. Upon conviction a person may also be ordered to abate, discontinue or correct a violation of this Title.

(5) Superior Court – Civil Action. In addition to or as an alternative to any other penalty provided in this Title or by law, a violation or a failure to comply with the provisions of this Title may be enforced by a civil action filed in King County Superior Court in any manner allowed by law.

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